

1 STEFANI E. SHANBERG, State Bar No. 206717

sshanberg@perkinscoie.com

2 DIETER H. HELLMOLDT, State Bar No. 221498

dhellmoldt@perkinscoie.com

3 PERKINS COIE LLP

Four Embarcadero Center, Suite 2400

4 San Francisco, California 94111-4131

Telephone: (415) 344-7000

5 Facsimile: (415) 344-7050

6 Attorneys for Plaintiff and Counterclaim-Defendant

CHIP-MENDER, INC.

7 PETER N. LARSON, State Bar No. 153448

pnlarson@jonesday.com

8 JONES DAY

9 555 California Street, 26th Floor

San Francisco, California 94104-1602

10 Telephone: (415) 626-3939

Facsimile: (415) 579-0312

11 REGAN J. FAY, (*admitted Pro Hac Vic*)

12 ANTHONY T. JACONO, (*admitted Pro Hac Vice*)

JONES DAY

13 North Point

901 Lakeside Avenue

14 Cleveland, Ohio 44114-1190

Telephone: (216) 586-3939

15 Facsimile: (216) 579-0212

16 Attorneys for Defendant and Counterclaim-Plaintiff

THE SHERWIN-WILLIAMS COMPANY

17
18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 CHIP-MENDER, INC.,
22 a California corporation,

23 Plaintiff,

24 v.

25 THE SHERWIN-WILLIAMS COMPANY,
26 an Ohio corporation,

27 Defendant.

28 AND RELATED COUNTERCLAIMS

CASE NO. 05-CV-3465 (PJH)

**REVISED STIPULATION AND
[PROPOSED] ORDER MODIFYING
CASE MANAGEMENT AND PRETRIAL
SCHEDULE**

STIPULATION AND [PROPOSED] ORDER

CASE NO. 05-CV-3465 (PJH)

56918-0001/LEGAL13049534.1

Pursuant to Civil L.R. 6-2, Plaintiff Chip-Mender, Inc. ("Plaintiff") and defendant The Sherwin-Williams Company ("Defendant"), by their undersigned counsel, hereby submit the following Stipulation and Proposed Order Modifying the Case Management and Pretrial Schedule. In particular, the parties seek to modify the schedule relating to the disclosure of rebuttal experts, the close of expert discovery, the last day to hear dispositive motions, and the trial date. By and through counsel, Plaintiff and Defendant stipulate as follows:

1. This Court's Case Management and Pretrial Order, dated January 6, 2006, set the following schedule:

- Disclosure of rebuttal experts and service of rebuttal expert reports: February 26, 2007;
- Close of expert/willfulness discovery: March 19, 2007;
- Last day to hear dispositive motions: April 18, 2007.

2. Lead counsel for Plaintiff, Kenneth B. Wilson, has taken an indefinite leave of absence for personal and medical reasons. Stefani E. Shanberg has assumed the role of lead counsel, and Mr. Wilson's leave also necessitates the integration of new team members. In light of the change in lead counsel and the need for new team members to integrate, Plaintiff has asked to modify certain Court-ordered deadlines. Defendant has agreed to this modification. Accordingly, the parties have agreed to the following modified schedule:

- Disclosure of rebuttal experts and service of rebuttal expert reports: March 5, 2007;
- Close of expert/willfulness discovery: April 13, 2007;
- Last day to hear dispositive motions: May 30, 2007;
- Pretrial Conference: August 30, 2007;
- Trial: September 24, 2007.

3. The original date for hearing dispositive motions is particularly problematic given that Ms. Shanberg has a preexisting commitment to be in Japan on that date. Pursuant to the Court's Pretrial Instructions, extending the date for hearing dispositive motions necessitates moving the trial date in order to maintain 120-days between the modified date for hearing of dispositive motion and the trial date. Accordingly, the parties have agreed that the trial date

should be moved from August 20, 2007 to September 24, 2007. This allows for a 120-day period between the modified date for hearing of dispositive motions and the trial date, as specified the Court's Pretrial Instructions, to be maintained. The pretrial conference date should be set for August 30, 2007.

4. The dates for Late Neutral Evaluation are not effected by these extensions of time.

DATED: February 23, 2007

CHIP-MENDER, INC.

By: /s/
Stefani E. Shanberg

Attorneys for Plaintiff and Counterclaim-Defendant
CHIP-MENDER, INC.

DATED: February 23, 2007

THE SHERWIN-WILLIAMS COMPANY

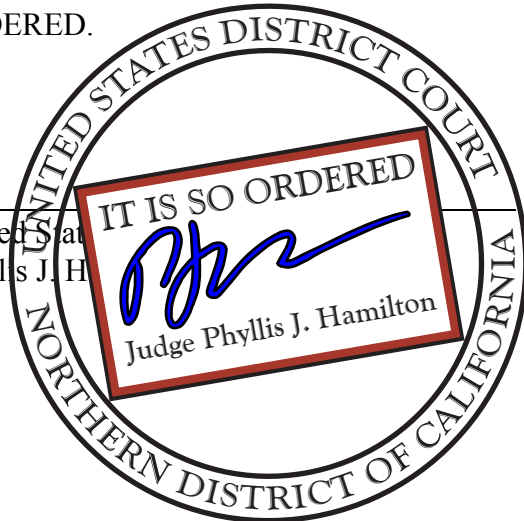
By: /s/
Regan J. Fay

Attorneys for Defendant and Counterclaim-Plaintiff
THE SHERWIN-WILLIAMS COMPANY

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: February 26, 2007

United States
Phyllis J. Hamilton



1 ATTESTATION PURSUANT TO GENERAL ORDER 45

2 I, Stefani E. Shanberg, attest that I obtained the concurrence of Regan J. Fay in filing this
3 document.

4 I declare under the penalty of perjury of the laws of the United States that the foregoing is
5 true and correct.

6 Executed this 23nd day of February, 2007 in San Francisco, California.

7
8 /s/
9 Stefani E. Shanberg
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28